



**U.S. Citizenship
and Immigration
Services**

**Non-Precedent Decision of the
Administrative Appeals Office**

MATTER OF M-C-B-O-E-

DATE: NOV. 20, 2018

APPEAL OF TEXAS SERVICE CENTER DECISION

PETITION: FORM I-140, IMMIGRANT PETITION FOR ALIEN WORKER

The Petitioner, a public school, seeks to employ the Beneficiary as a math instructional coach. It requests classification of the Beneficiary as a member of the professions holding an advanced degree under the second preference immigrant category. Immigration and Nationality Act (the Act) section 203(b)(2), 8 U.S.C. § 1153(b)(2). This employment-based “EB-2” immigrant classification allows a U.S. employer to sponsor a professional with an advanced degree for lawful permanent resident status.

The Director of the Texas Service Center originally approved the petition, but subsequently revoked the approval on the grounds that the evidence of record did not establish that the Beneficiary met the educational requirement of the labor certification or qualified for classification as an advanced degree professional.

On appeal the Petitioner submits a brief and supporting documentation. The Petitioner asserts that the Beneficiary has the requisite educational degree to meet the requirement of the labor certification and to qualify for advanced degree professional classification.

Upon *de novo* review, we find that the Beneficiary has the requisite education and experience to qualify for EB-2 classification. However, because the Petitioner has not demonstrated the Beneficiary’s possession of the degree required by the terms of the labor certification, we will dismiss the appeal.

I. LAW

Employment-based immigration generally follows a three-step process. First, an employer obtains an approved labor certification from the U.S. Department of Labor (DOL). *See* section 212(a)(5)(A)(i) of the Act, 8 U.S.C. § 1182(a)(5)(A)(i). By approving the labor certification, the DOL certifies that there are insufficient U.S. workers who are able, willing, qualified, and available for the offered position and that employing a foreign national in the position will not adversely affect the wages and working conditions of U.S. workers similarly employed. *See* section 212(a)(5)(A)(i)(I)-(II) of the Act. Second, the employer files an immigrant visa petition with U.S. Citizenship and Immigration Services (USCIS). *See* section 204 of the Act, 8 U.S.C. § 1154. Third;

if USCIS approves the petition, the foreign national may apply for an immigrant visa abroad or, if eligible, adjustment of status in the United States. *See* section 245 of the Act, 8 U.S.C. § 1255.

Section 205 of the Act 8 U.S.C. § 1155, provides that the Secretary of Homeland Security may “for good and sufficient cause, revoke the approval of any petition.” By regulation this revocation authority is delegated to any USCIS officer who is authorized to approve an immigrant visa petition “when the necessity for the revocation comes to the attention of [USCIS].” 8 C.F.R. § 205.2(a). USCIS must give the petitioner notice of its intent to revoke the prior approval of the petition and the opportunity to submit evidence in opposition thereto, before proceeding with written notice of revocation. *See* 8 C.F.R. § 205.2(b) and (c).

II. ANALYSIS

A petition for an advanced degree professional must be accompanied by documentation showing that the beneficiary is a professional holding an advanced degree. 8 C.F.R. § 204.5(k)(1). The regulation at 8 C.F.R. § 204.5(k)(2) defines “advanced degree” as “any United States academic or professional degree or a foreign equivalent degree above that of baccalaureate.” It also provides that “[a] United States baccalaureate degree or a foreign equivalent degree followed by at least five years of progressive experience in the specialty shall be considered the equivalent of a master’s degree.” *Id.* In addition to meeting the regulatory requirements for the requested classification, a beneficiary must meet all of the education, training, experience, and other requirements of the labor certification as of the petition’s priority date.¹ *See Matter of Wing’s Tea House*, 16 I&N Dec. 158, 159 (Acting Reg’l Comm’r 1977).

At issue here is whether the Beneficiary has the requisite educational degree to meet the requirements of the labor certification. Section H of the labor certification states the following with regard to the job requirements for the proffered position of math instructional coach:

4.	Education: Minimum level required:	Master’s degree
4-B.	Major Field of Study:	Mathematics
5.	Is training required in the job opportunity?	No
6.	Is experience in the job offered required?	No
7.	Is an alternate field of study acceptable?	No
8.	Is an alternate combination of education and experience acceptable?	No
9.	Is a foreign educational equivalent acceptable?	Yes
10.	Is experience in an alternate occupation acceptable?	No
14.	Special skills or other requirements:	Valid T-5 level GA Educator Certificate in Mathematics

¹ The “priority date” of a petition is the date the underlying labor certification is filed with the DOL. *See* 8 C.F.R. § 204.5(d). In this case the priority date is August 2, 2012.

Thus, the labor certification specifies that a master's degree in mathematics or a foreign educational equivalent is required, plus the state teacher certificate, and that no other combination of education and experience is acceptable. Section J of the labor certification states that the Beneficiary's highest level of education relevant to the job offered is a master's degree in mathematics from [REDACTED] in India, completed in 1989.

As evidence of the Beneficiary's educational degrees the Petitioner has submitted copies of his degree certificates and associated memoranda of marks from [REDACTED] in [REDACTED] India, showing that the Beneficiary earned three degrees from that university. They included a bachelor of science (B.Sc.) following a three-year academic program in the years 1984-1987, a master of science (M.Sc.) in the field of mathematics following a two-year academic program in the years 1987-1989, and a bachelor of education (B.Ed.) following a one-year academic program in the years 1989-1990. With its initial evidence the Petitioner submitted an evaluation of the Beneficiary's educational credentials from [REDACTED], and in response to the NOIR submitted another evaluation from [REDACTED]. Both of these evaluations asserted, in pertinent part, that the Beneficiary's master of science in the field of mathematics from [REDACTED] was equivalent to a U.S. master's degree in mathematics.

In his revocation decision the Director found that none of the Beneficiary's educational credentials from [REDACTED] was equivalent to a U.S. master's degree. The Director consulted the Educational Database for Global Education (EDGE), created by the American Association of Collegiate Registrars and Admissions Officers (AACRAO),² which describes a three-year bachelor of science degree in India as comparable to three years of study at a U.S. college or university, a one-year bachelor of education following a three-year bachelor's degree in India as comparable to a U.S. bachelor's degree, and a two-year master of science following a three-year bachelor's degree in India as comparable to a bachelor's degree in the United States. The Director discussed the [REDACTED] and [REDACTED] evaluations at length, and found that their analyses of the Beneficiary's educational degrees were substantively deficient and lacking in documentary support. Most importantly, the Director did not accept the assertions of [REDACTED] and [REDACTED] that the Beneficiary's master of science from [REDACTED] is equivalent to a U.S. master's degree.

On appeal the Petitioner challenges the credential advice in EDGE relating to the Beneficiary's Indian degrees, contends that the Director unduly relied on EDGE in his revocation decision, and submits a second credential evaluation from [REDACTED]. Like the first evaluation from [REDACTED] submitted in response to the NOIR (as well as the earlier [REDACTED] evaluation), the latest evaluation from [REDACTED] asserts that the Beneficiary's two-year master of science in mathematics from [REDACTED]

² AACRAO is described on its website as "a nonprofit, voluntary, professional association of more than 11,000 higher education admissions and registration professionals who represent more than 2,600 institutions in over 40 countries." <http://www.aacrao.org/who-we-are> (last visited Oct. 25, 2018). EDGE is described on its registration page as "a web-based resource for the evaluation of foreign educational credentials." <http://edge.aacrao.org/info.php> (last visited Oct. 25, 2018).

University, following his three-year bachelor of science, is equivalent to a U.S. master of science in mathematics. Although the Petitioner questions the EDGE conclusions, courts have supported our utilization of EDGE. In *Confluence Intern., Inc. v. Holder*, 2009 WL 825793 (D.Minn. Mar. 27, 2009), the court determined that the AAO provided a rational explanation for its reliance on information provided by AACRAO to support its decision. In *Sunshine Rehab Services, Inc.* 2010 WL 3325442 (E.D.Mich. Aug. 20, 2010), the court upheld a USCIS determination that the alien's three-year bachelor's degree was not a foreign equivalent degree to a U.S. bachelor's degree. Specifically, the court concluded that USCIS was entitled to prefer the information in EDGE and did not abuse its discretion in reaching its conclusion. In *Tisco Group, Inc. v. Napolitano*, 2010 WL 3464314 (E.D.Mich. Aug. 30, 2010), the court found that USCIS had properly weighed the evaluations submitted and the information obtained from EDGE to conclude that the alien's three-year foreign "baccalaureate" and foreign "Master's" degree were only comparable to a U.S. bachelor's degree. In accord with the above rulings, we agree with EDGE's assessment that the Beneficiary's master's degree is comparable to a U.S. bachelor's degree, not a U.S. master's degree.

Moreover, the new evaluation from [REDACTED] is not persuasive due to its lack of substantive analysis. It lists the eight courses taken by the Beneficiary in his master of science degree program at [REDACTED], assigning each of them eight U.S. credits and a U.S. grade of A or B. Explaining the assignment of U.S. credits to the Beneficiary's individual courses, the evaluation states that "[c]onversion of foreign academic hours is calculated on the assumption that the average number of credits for one year of full time academic study in the United States for the majority of accredited higher educational institutions varies from 30 to 34 semester hours." Thus, the U.S. credit equivalency in the [REDACTED] evaluation is based on an assumption, not the actual number of credit hours earned by the Beneficiary, because his memoranda of marks from [REDACTED] do not reveal how many credit hours he earned in each of his courses. Furthermore, the [REDACTED] evaluation does not include any substantive analysis of the individual courses in the Beneficiary's master of science program, or why they should collectively be considered equivalent to a master's degree in mathematics from a regionally accredited university in the United States.

The same shortcomings apply in the new [REDACTED] evaluation with regard to the Beneficiary's bachelor of science degree from [REDACTED]. The evaluation assigns five or six U.S. credits to each of the 22 courses taken by the Beneficiary, adding up to 130. Based on the U.S. credits assigned in the [REDACTED] evaluation, the Petitioner asserts that the Beneficiary's bachelor of science degree amounted to four years of academic study, contrary to the EDGE credential advice that a three-year bachelor of science in India is comparable to only three years of study at a U.S. college or university. Like the U.S. credits assigned to the Beneficiary's master's degree coursework, however, the U.S. credits [REDACTED] assigns to the bachelor's degree coursework are not based on actual credit hours in the Beneficiary's academic record because the memoranda of marks from [REDACTED] do not reveal these figures. Thus, the U.S. credit equivalencies assigned to the Beneficiary's individual courses have no evidentiary support in the [REDACTED] evaluation, or anywhere else in the documentation of record. They do not establish that the Beneficiary's three-year bachelor of science from [REDACTED] is equivalent to a U.S. bachelor's degree, which generally

requires four years of academic study. *See Matter of Shah*, 17 I&N Dec. 244, 245 (Reg'l Comm'r 1977).³ Evaluations of educational credentials by evaluation services and individual evaluators are utilized by USCIS as advisory opinions only. We may reject or give less evidentiary weight to expert opinions that conflict with evidence in the record or are "in any way questionable." *Matter of Caron Int'l, Inc.*, 19 I&N Dec. 791, 795 (Comm'r 1988).

Though equally deficient in its analysis of the Beneficiary's third degree from [REDACTED] the one-year bachelor of education, the [REDACTED] evaluation of this degree as equivalent to a U.S. bachelor's degree accords with the credential advice of EDGE. This degree equivalency is not helpful to the Beneficiary in this proceeding, however, since neither the degree level nor the field of study meets the requirements of the labor certification.

For the reasons discussed above, the Petitioner has not overcome the Director's finding that the Beneficiary's educational credentials from [REDACTED] do not include a single foreign degree equivalent to a U.S. master's degree in mathematics.

III. CONCLUSION

The appeal will be dismissed because the record does not establish that the Beneficiary has the requisite educational degree to meet the minimum educational requirement of the labor certification.

ORDER: The appeal is dismissed.

Cite as *Matter of M-C-B-O-E-*, ID# 1943195 (AAO Nov. 20, 2018)

³ While contesting the credential advice in EDGE with reference to the Beneficiary's bachelor of science and master of science degrees from [REDACTED], the Petitioner does not address the additional information in EDGE that the entry requirement for a two-year master of science (M.Sc.) degree program at Indian universities is a three-year bachelor's degree. *See* edge.aacrao.org/country/credential/master-of-arts-or-commerce?cid=single (last visited Oct. 26, 2018). A four-year bachelor's degree is not required to enter a master of science (M.Sc.) degree program in India. Therefore, even if the Beneficiary's bachelor of science from [REDACTED] were determined to comprise four years of coursework, it would not affect the U.S. equivalency of his subsequent master of science degree from [REDACTED] because the entry requirement for that program was only a three-year bachelor's degree.